

July 17, 2018

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VIA E-MAIL AND DELAFILE

The Honorable Mark Lawrence
Senior Hearing Examiner
Delaware Public Service Commission
861 Silver Lake Blvd., Suite 100
Dover, Delaware 19904

Re: Docket No. 17-1094

Dear Senior Hearing Examiner Lawrence:

Your Honor has requested the position of the parties with respect to when the Commission should hear DPA's appeal of your ruling of July 3, 2018 granting Delmarva's request for a continuance of the hearing that was scheduled to begin on July 11, 2018 and the pending motion filed by DPA and Staff on July 13, 2017 to stay all proceedings in this matter.

Both of these matters involve the procedural schedule in a case where the commission has designated and authorized Your Honor "to schedule and conduct". . . "evidentiary hearings, as may be necessary, to have a full and complete record concerning the justness and reasonableness of the proposed program." Order No. 9183, PSC Docket No. 17-1094 (Feb. 1, 2018) (emphasis added) (citing to Order No. 9150 designating former Hearing Examiner Cambell Hay to "schedule and conduct" evidentiary hearings and authorizing Your Honor "to continue the assigned responsibilities in this docket"). (Copy of Order No. 9183 attached). As such, it is Delmarva's position that neither the appeal nor motion to stay are procedurally proper before the Commission for a decision on the merits.

First, as provided in my letter dated July 12, 2018, the appeal of Your Honor's ruling on the issue of Delmarva's continuance request is clearly interlocutory and is thus governed by Commission Rule 2.16.5. 26 Del. Admin. C. §1001-2.16.5. Second, DPA and Staff's recent motion filed directly with the Commission for a stay of this proceeding is in contravention of the Commission's Order No. 9183, which designated Your Honor as the Hearing Examiner to decide such issues, again subject to any interlocutory appeal properly filed from such a decision.

While Delmarva does not waive its objections to these procedural irregularities and intends to raise them before the Commission, we think the most efficient way to move forward at this point is to have both motions heard by the Commission at its July 24, 2018 meeting. Both motions involve the procedural schedule in this matter and the

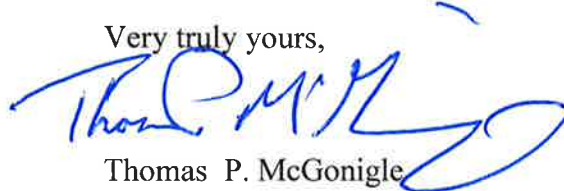
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issues are contextually related. In fact, at the prehearing teleconference before Your Honor on July 3, 2018, Deputy Attorney General Iorii made reference to this case being delayed until next year based on DPA's interpretation of Senate Bill 188, the legislation that failed to pass the 149th General Assembly. No formal request was made in that regard and no ruling was issued but Your Honor did mention the possible desire for legal briefing on the issue of the legislation and its potential impact at some later date. Simply put, the Commission should have the complete and proper context of these matters, including the timing of how they arose. To that end, the matters should be heard in the order they were filed, meaning DPA's appeal of Your Honor's ruling granting Delmarva's continuance request should be heard first, followed by DPA and Staff's motion to stay the proceedings.¹

Delmarva proposes that any written submission the parties seek to have the Commission consider before the meeting on July 24, 2018, be filed on or before Thursday, July 19, 2018 and we respectfully request that both matters be considered by the Commission at its meeting next week.

Very truly yours,



Thomas P. McGonigle

Enclosures
TPM/nd

cc: Service List (via electronic mail)
File

¹ Delmarva is not persuaded by DPA's stated concern about adding to the Commission's burden, as it is DPA that initiated these matters in the manner in which they are now before the Commission. The proper way to alleviate the Commission's burden is to allow Your Honor, as the Commission's designated hearing officer, to handle scheduling matters, only appealing such matters in extraordinary circumstances in accordance with the Commission's Rules.

BEFORE THE PUBLIC SERVICE COMMISSION

OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
DELMARVA POWER & LIGHT COMPANY FOR)
APPROVAL OF A VOLUNTARY PROGRAM FOR) PSC DOCKET NO. 17-1094
PLUG IN VEHICLE CHARGING)
(FILED OCTOBER 19, 2017))

ORDER NO. 9183

AND NOW, this 1st day of February 2018, the Delaware Public Service Commission ("Commission") determines and orders the following:

WHEREAS, on October 19, 2017, Delmarva Power & Light Company ("Delmarva" or the "Company") filed an application (the "Application") with the Commission requesting approval of a voluntary program for Plug In Vehicle Charging ("PIV"); and

WHEREAS, on November 30, 2017 in Order No. 9150, the Commission opened this docket and designated R. Campbell Hay as Hearing Examiner for this matter pursuant to the terms of 26 Del. C. §502 and 29 Del. C. ch.101 to schedule and conduct, upon due notice, such public comment sessions and evidentiary hearings, as may be necessary, to have a full and complete record concerning the justness and reasonableness of the proposed program; and

WHEREAS, Hearing Examiner Hay has recently resigned from his position with the Commission and will not be available to conclude the assignment designated in Order 9150.

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE AFFIRMATIVE
VOTE OF NOT FEWER THAN THREE COMMISSIONERS:

1. That Mark Lawrence is designated as Hearing Examiner for this matter pursuant to the terms of 26 Del. C. §502 and 29 Del. C. ch. 101

to continue the assigned responsibilities in this docket, as may be necessary, to have a full and complete record concerning the justness and reasonableness of the proposed program. Thereafter, Senior Hearing Examiner Lawrence shall file with the Commission his proposed findings and recommendations. Pursuant to Rule 2.1 of the Commission's Rules of Practice and Procedure, Senior Hearing Examiner Lawrence is specifically delegated the authority to grant or deny petitions seeking leave to intervene and for admission of counsel *pro hac vice*. In addition, Senior Hearing Examiner Lawrence is delegated the authority, under 26 Del. C. §102(A), to determine the form and manner of any further public notice in this matter.

2. The Commission Secretary shall promptly serve a copy of this Order on the Division of the Public Advocate.


3. The Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

Chair

Jason Hawaway
Commissioner

Commissioner


Commissioner

Commissioner



Commissioner



Commissioner

ATTEST:


Secretary